

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER BENEFIT
DECISION NO. 5441 AS A PRECEDENT
DECISION PURSUANT TO SECTION
409 OF THE UNEMPLOYMENT
INSURANCE CODE.

In the Matter of:

CLEMENT T. CHUN
(Claimant)
S.S.A. No.

AMERICAN PRESIDENT LINES
(Employer)

PRECEDENT
BENEFIT DECISION
No. P-B-285

FORMERLY BENEFIT DECISION No. 5441
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The above-named claimant on March 3, 1949, appealed from the decision of a Referee (SF-9401) which held that he was ineligible for benefits under Section 58(a)(1) of the Unemployment Insurance Act /now section 1256 of the Unemployment Insurance Code/. Written briefs submitted by the parties hereto are on file and have been considered.

Based on the record before us, our statement of fact, reason for decision, and decision are as follows:

STATEMENT OF FACT

The claimant was last employed as a plumber aboard a vessel operated by a steamship company for the period from January 22, 1949 to March 3, 1949, when his employment terminated under circumstances hereinafter set forth.

On March 7, 1949, the claimant reopened his claim and registered for work in the San Francisco office of the Department of Employment. On March 16, 1949, following the receipt of a protest from the employer, the Department issued a determination which held the

claimant eligible for benefits under the provisions of Section 58(a)(1) of the Act /now section 1256 of the code/, on the ground that he had not voluntarily terminated his employment. The employer appealed and the Referee reversed the determination.

The claimant was employed as a plumber by a ship's officer on condition that he remain one voyage only. This condition was imposed because the officer had on board a storekeeper whom he wished to promote to the position of plumber. This promotion could not be made under a union rule until the storekeeper had completed a voyage as a member of a full complement aboard a vessel. The ship's officer had previously rejected as unqualified three other men dispatched by the union for this work.

In its brief, the employer contends that the claimant voluntarily left his work without good cause, on the ground that employees are never dispatched by the union hiring hall for one trip only and the claimant could have remained aboard ship.

REASON FOR DECISION

The employer's contention that the claimant voluntarily left his work is not supported by the facts. Although it may be a union policy not to dispatch an individual to a ship for only a single voyage, the evidence shows that the ship's officer, because of his desire to promote another employee, did not offer employment to the claimant for an indefinite term. Instead this officer, acting for the employer, and with the power of selecting and rejecting personnel, employed the claimant with the understanding that his services were not desired beyond one voyage. The claimant, accepting the terms of the offer, completed the voyage and thereafter became involuntarily unemployed, because there was no longer any work for him under the terms of hire. He is not, therefore, subject to disqualification for benefits under Section 58(a)(1) of the Act /now section 1256 of the code/.

DECISION

The decision of the Referee is reversed. Benefits are allowed, provided the claimant is otherwise eligible.

Sacramento, California, August 11, 1949.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

MICHAEL B. KUNZ, Chairman (Absent)

GLENN V. WALLS

PETER E. MITCHELL

Pursuant to section 409 of the Unemployment Insurance Code, the above Benefit Decision No. 5441 is hereby designated as Precedent Decision No. P-B-285.

Sacramento, California, April 6, 1976.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

DON BLEWETT, Chairperson

MARILYN H. GRACE

CARL A. BRITSCHGI

HARRY K. GRAFE

RICHARD H. MARRIOTT

